



1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF C O O K)

3 IN THE CIRCUIT COURT OF COOK COUNTY
4 COUNTY DEPARTMENT-CHANCERY DIVISION

5 SUNNY HILL BEAUTY SCHOOL,)
a partnership,)

6 Plaintiff,)
7)

8 vs.)

No. 86 CH 8391

9 COMMERCIAL MANAGEMENT, CO.,)
et.al.,)

10 Defendants.)
11)

12 The deposition of ERNIE HOWARD, called by the
13 plaintiff for examination, pursuant to notice and
14 pursuant to the provisions of the Illinois Code of
15 Civil Procedure and the Rules of the Supreme Court of
16 the State of Illinois, for the purpose of discovery,
17 taken before Mary Kay Martensen, CSR and Notary Public
18 in and for the County of DuPage and State of Illinois,
19 at Suite 525, Three First National Plaza, Chicago,
20 Illinois, on November 11, 1987, at 10:30 a.m.
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PRESENT:

MR. MARK R. ORDOWER
Three First National Plaza
Suite 525
Chicago, Illinois 60610

appeared on behalf of the Plaintiff;

KAMBEROS & PAPPAS
by MR. PETER N. KAMBEROS
Three First National Plaza
Suite 525
Chicago, Illinois 60602

appeared on behalf of the Defendants.

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I N D E X

WITNESS

ERNIE HOWARD

EXAMINED BY

MR. ORDOWER

PAGE

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NO EXHIBITS WERE MARKED

1 ERNIE HOWARD,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 EXAMINATION

5 BY MR. ORDOWER:

6 Q What's your name?

7 A Pardon?

8 Q What's your name?

9 A Ernie Howard.

10 MR. ORDOWER: The only time I get to beat up
11 on a guy his size.

12 BY MR. ORDOWER:

13 Q Ernie Howard, where do you live?

14 A 6354 Broadway.

15 Q That's North Broadway?

16 A Yeah.

17 Q Do you live there?

18 A Yeah.

19 Q Isn't that where Lou Wolf lives, too?

20 MR. KAMBEROS: Everybody lives there. That's
21 where you guys live, too.

22 BY MR. ORDOWER:

23 Q How many apartments are in that building?

24 MR. KAMBEROS: I object to the question and

1 instruct the witness not to answer any more
2 questions regarding where he lives, just as Mr.
3 Ordower did with his witnesses.

4 MR. ORDOWER: But I had a reason for that.

5 MR. KAMBEROS: What was that?

6 MR. ORDOWER: You wanted to pursue what would
7 more properly be a citation proceeding. I don't
8 have a judgment against him yet.

9 MR. KAMBEROS: This is an address he's using.

10 BY MR. ORDOWER:

11 Q You don't really live there, do you?

12 MR. KAMBEROS: What's your real address?

13 THE WITNESS: That's my address. Christ,
14 there's 6,000 feet on the second floor there. Use
15 that for my address. Phone No. 262-9361.

16 BY MR. ORDOWER:

17 Q 262 --

18 A 262-9631.

19 Q What's your business or occupation?

20 A Building Manager.

21 Q Who do you work for?

22 A Lou Wolf.

23 Q Does Lou Wolf have a company name that he
24 uses?

1 A CMC.

2 Q CMC? As far as you know, that's owned by Lou
3 Wolf?

4 A Yeah.

5 Q Do you get paychecks?

6 A Yeah.

7 Q They're signed by Lou Wolf?

8 A Yeah.

9 Q Do they have a name on the check? Does it say
10 CMC?

11 A Yeah. I think Mel Glick signs the checks,
12 too.

13 Q Glick? What's his first name? Melvin?

14 A Melvin Glick, yeah. He's the Office Manager.

15 Q And are your offices at 6354 North Broadway?

16 A Right.

17 Q How big an office is that?

18 A Oh, maybe 600, 700 feet, square feet. There's
19 about four offices there.

20 Q How many phones are there in the office?

21 A About two.

22 Q How many other employees are there?

23 A A Gregory Berkowitz.

24 Q He's the only other employee in the office?

1 A Right.

2 Q And Glick, is Glick in the office usually?

3 A Yeah.

4 Q What's Berkowitz' job?

5 A Just goes around maintaining the buildings,
6 checking the maintenance and the work crews.

7 Q And what's your job?

8 A Collecting the rents.

9 Q How long have you been with CMC?

10 A About six years.

11 Q Does the name Commercial Management mean
12 anything to you?

13 A Yeah.

14 Q What does it mean to you?

15 A It's a management company there, too.

16 Q Commercial Management, Co., right? Is that
17 the same as CMC or is it different?

18 A Yeah, Commercial Management.

19 Q Same as CMC?

20 A Yeah.

21 Q Is one of the buildings you manage at 4839
22 North Milwaukee?

23 A Right.

24 Q By the way, how many buildings does the

1 company manage, would you say?

2 MR. KAMBEROS: Objection. Don't answer the
3 question. What's the relevancy of that?

4 MR. ORDOWER: Just to see how much they had
5 going on, to see if messages got lost, the number
6 of people coming in.

7 MR. KAMBEROS: I'm instructing him not to
8 answer that question.

9 BY MR. ORDOWER:

10 Q That 4839 North Milwaukee, how big a building
11 is that?

12 A Let's see. It's about 30,000 square feet.

13 Q And how many stores?

14 A There's a doctor, shoe store, shoe repair,
15 Walgreens and a beauty school.

16 MR. KAMBEROS: There was all these things in
17 there.

18 THE WITNESS: Yeah. They're not in there
19 anymore. Just the doctor is in there now, to the
20 best of my knowledge.

21 BY MR. ORDOWER:

22 Q Four or five stores, right?

23 A There were.

24 Q Okay. And there's no one there now but the

1 doctor?

2 A To the best of my knowledge, yes.

3 Q What's the name of the doctor?

4 A It's Carlos Bouvier. I don't know how to
5 spell the last name. I believe that's it. Carlos.

6 Q That's good enough. When did Walgreens move
7 out?

8 A Several months ago.

9 Q And you mentioned the beauty school. Did you
10 ever meet the owners of the beauty school?

11 A Yes, I did.

12 Q When was the first time you ever met them?

13 A Several years ago they wanted to rent it and I
14 was the one that showed it to them.

15 Q And do you know how they got ahold of you?

16 A They called our office. There was a sign in
17 the window of the store.

18 Q Who called? Do you know?

19 A I don't know.

20 Q Did you answer the phone on the first --

21 A I don't recall. We have a message book and
22 whoever answered the phone puts it in the message book
23 and then you either call back or if we talk to them,
24 set up an appointment to meet them.

1 Q Tell me about the message book. Is that in a
2 particular location in the office?

3 A No.

4 Q There's only two phones though, right?

5 A Right.

6 Q It's usually near one of the phones, I would
7 assume. Is that --

8 A Right.

9 Q Whoever answers it writes the message in
10 there?

11 A Right.

12 Q Is it a tear-out kind of a thing?

13 A No, it's just a spiral notebook.

14 Q Do you keep those?

15 A No.

16 Q How soon do you throw them away?

17 A A week or two or whenever it fills up.

18 Q All right. So who was it that you met on this
19 occasion?

20 A I believe I met both of them each time.

21 Q Do you remember their names?

22 A I think one was Tony and I don't even know
23 what the other one's name was.

24 Q Paul maybe?

1 A Paul, yeah.

2 Q And you showed them both the space?

3 A Yes, I did.

4 Q You walked over there and where did you meet
5 them?

6 A I met them at the space.

7 Q They met you at the building?

8 A Right.

9 Q And you looked it over. Did you have any
10 discussion at that time?

11 A I quoted them the rent and they said they'd
12 get back to me.

13 Q And then what happened?

14 A A short time after I believe I met them out
15 there again and showed it to them. I asked them about
16 purchasing it. I told them the purchase price was
17 \$600,000.00.

18 Q And then what was the --

19 A Well, then they didn't say anything. They
20 called again and they wanted to see it a third time.

21 Q By the way, how did you get that \$600,000.00
22 price?

23 A From Mr. Wolf.

24 Q Now did you know that before you went out

1 there or did you have to check with him and then call
2 back or how did that work?

3 A I think somebody -- I'm not sure. Okay?

4 MR. KAMBEROS: If you don't know, Mr. Howard,
5 tell Mr. Ordower you don't know. If you know the
6 answer, answer the question. Do not guess or
7 speculate.

8 THE WITNESS: Okay. I don't know. I had
9 gotten the price from Mr. Wolf.

10 BY MR. ORDOWER:

11 Q What was the rent price you were quoting?

12 A I believe it was \$3,000.00 dollars a month.

13 Q Okay. All right. And then so you showed it
14 to them a third time. What happened when you showed it
15 to them the third time?

16 A They wanted to come into the office and talk
17 to somebody about purchasing it.

18 Q Did they do that?

19 A Yeah.

20 Q Who did they come in and talk to?

21 A Mr. Wolf.

22 Q Now as far as the time period when what we've
23 been talking about occurred, would this have all been
24 in 1984? Early part of 1984?

1 Do you have a copy of the lease?

2 Let me show you what's been previously
3 marked Exhibit 1, which is a copy of --

4 A I believe it was about '84, yeah.

5 Q So that lease is dated May 17, 1984?

6 A Oh, it probably was like two or three weeks
7 before that I had been showing it to them, so --

8 Q Right.

9 A Figure April, you know. End of April
10 somewhere.

11 Q Okay. Somewhere in there. Is there any other
12 way you could pin the date down?

13 A Not really, no.

14 Q You don't have any notebooks or calendars,
15 appointment books, anything that would tell you that?

16 A Not the exact date.

17 Q Okay. And they came to talk to Mr. Wolf?

18 A Yes.

19 Q At 6354 North Broadway?

20 A Right.

21 Q Both of them came in?

22 A Right.

23 Q Were you there when they --

24 A I was there, yeah.

1 Q Do you remember what time of the day that was?

2 A It was in the late afternoon, I believe. I
3 believe it was in the late afternoon.

4 Q And were you involved in the conversation?

5 A No, I told them they'd have to talk to him
6 regarding the -- I think I had a call, I had to go out,
7 and I left.

8 Q Okay. So when you left, they were both
9 physically in the -- in your office space?

10 A To the best of my knowledge.

11 Q Okay. And can you recall any of the
12 conversation they may have had with Lou Wolf?

13 A (No response.)

14 Q Were you there for any part of it?

15 A I think I left the room.

16 Q Did you introduce them?

17 A Yeah.

18 Q They'd never seen Lou Wolf before that, right?

19 A No.

20 Q All right. So as far as you can -- it would
21 be fair to say, as far as you can remember, you
22 introduced them to Lou Wolf and then you left because
23 you had to go somewhere?

24 A Right.

1 Q You said Mr. Wolf, this is Mr. Scardino or
2 maybe you didn't even know their names. Did you know
3 their names?

4 A I didn't know their last names. I think I
5 introduced Paul and the other gentleman introduced
6 himself.

7 Q Okay. Then did you -- what was your next
8 involvement with this particular situation?

9 A I really never saw him after that. Mr. Wolf
10 made up a lease form and met him some place and --

11 Q So you never -- you had nothing to do with
12 typing the lease or preparing the lease?

13 A No, nothing. No, no. He made it up and he
14 met them some place and made the deal with them.

15 Q All right. And then now prior to this time
16 had they mentioned at all what they would have to do to
17 the space or what they were going to use the space for?

18 A They said for a beauty school.

19 Q And did they say what they would have to do to
20 make it usable?

21 A Well, they said they'd have to, you know, the
22 building needed work.

23 Q What kind of work? Do you know?

24 A The floors had to be fixed and they were going

1 to make offices there and, you know, dividers had to be
2 put in.

3 Q What had been in the space before the beauty
4 school? Before it was vacant? I assume it was vacant.

5 A Yeah, right. It was a grocery store.

6 Q Now you say you never saw them again after
7 that?

8 A Not to my knowledge, no.

9 Q Have you ever been in the beauty school space?

10 A Over at the beauty school?

11 Q Yes, while it was a beauty school.

12 MR. KAMBEROS: After they got in you mean?

13 MR. ORDOWER: Yes.

14 THE WITNESS: To my knowledge, it never was a
15 beauty school because the floor was never fixed or
16 anything done. There was just a partition put up
17 across the windows.

18 BY MR. ORDOWER:

19 Q You've been back in since they were out of
20 there. When was the last time you were in that space?

21 A I think when I went with the sheriff for the
22 eviction.

23 Q You haven't been back since?

24 A No.

1 Q You had an opportunity to observe it when
2 you --

3 A Went in the building with the sheriff?

4 Q Yes.

5 A Yeah. Like I say, the floor hadn't been
6 finished, the floor was the same, the walls were -- you
7 could see where some 2X4s were put up and they were
8 torn down and it was a little messy in there.

9 Q But had you ever gone by the building?

10 A Yeah, but you couldn't see in because they put
11 up, like ten feet from the front windows, they just put
12 up a big wall so you couldn't see in.

13 Q Is it a storefront kind of a place?

14 A It was a big grocery store, yeah.

15 Q Put a partition up in front of the glass
16 windows so you couldn't see in, right?

17 A Right.

18 Q Did you ever go over there to collect the rent
19 from these guys?

20 A I think they used to send it in. I don't
21 know. I never collected the rent from them.

22 Q Were you aware that they weren't paying rent
23 at any time while they were there?

24 A Yes, when I was asked to serve them a five-day

1 notice.

2 Q When were you asked to serve them a five-day
3 notice?

4 A Can I see the notice?

5 Q I show you Exhibit 5. It's a copy of a
6 five-day notice.

7 A Yeah. In April of '86 I posted a notice on
8 the door and I attempted to serve a notice across the
9 street and I believe we checked out that the registered
10 agent is on North Avenue, so I went to North Avenue,
11 right around North and Central, and there was a Mr.
12 Tally there and he said that they were in Europe and I
13 served him the notice also.

14 Q So that was in April? Was that April 4 that
15 you did all that?

16 A Yeah.

17 Q 1986?

18 A Yeah, right.

19 Q So when you went to the space at 4839 North
20 Milwaukee, was the door locked?

21 A Yeah.

22 Q You couldn't get in? There was nobody in
23 there, right?

24 A Yeah.

1 Q Was the partition still up that you talked
2 about?

3 A Yeah.

4 Q So you posted this on the door?

5 A Yes.

6 Q The five-day? And then you took another copy
7 of it and went over to North Avenue?

8 A Right.

9 Q To see Mr. Tally?

10 A Right.

11 Q And you gave it to Mr. Tally?

12 A Correct.

13 Q Who made this thing up for you to take?

14 A Mr. Wolf.

15 Q Did you ask for Paul and Tony by name when you
16 saw Tally or did you --

17 A Yeah. He said they were in Europe.

18 Q Had you ever been in -- you say you went
19 across the street. That's the Sunny Hill Beauty
20 School?

21 A Correct.

22 Q On the west side of Milwaukee?

23 A Right. It's on the southwest corner, I
24 believe.

1 Q That place was in business?

2 A Correct.

3 Q You couldn't find Paul or Tony there, right?

4 A No, nobody was there with really any
5 authority.

6 Q When you say you checked the registered agent,
7 did you do that or did somebody do that for you?

8 A Somebody did that.

9 Q Do you know who did it for you?

10 A No.

11 Q All right. So then what did you do after you
12 gave the notice to Mr. Tally?

13 A I left.

14 Q What did you do with the -- did you have a
15 copy of the notice?

16 A Yeah. I sent it to the attorney.

17 Q Okay. You signed it first?

18 A Yeah.

19 Q Who was the attorney?

20 A Mr. Kamberos.

21 Q Okay. Now after you did that, did either or
22 both of Paul Scardino and Tony Negro come to your
23 office there on Broadway that you know of?

24 A No, not that I know of. Not to my knowledge.

1 Q You don't remember them coming in knocking on
2 the door and talking to you, you coming out and talking
3 to them? Something like that?

4 A No, not really. Because, like I say, they
5 were in Europe and I, you know --

6 MR. KAMBEROS: Okay. You answered the
7 question. You don't remember that happening, do
8 you?

9 BY MR. ORDOWER:

10 Q What about a few weeks later or a month later
11 or something?

12 A Not to my knowledge.

13 Q You'd remember if they came to see you,
14 wouldn't you?

15 A I imagine I would.

16 Q If they talked to you? If they offered you
17 the rent?

18 A If they would have offered the rent, we would
19 have taken it, you know. We don't refuse money.

20 Q So you could say they never offered you the
21 rent?

22 A Right.

23 Q Never handed you the rent? And you never
24 talked to them after that? Did they ever try to talk

1 to you about exercising their option to purchase the
2 building?

3 A No, they would have talked to Mr. Wolf about
4 that. They wouldn't have talked to me about that.

5 Q Is there any reason you would ever have -- or
6 that they would ever have met Mr. Berke?

7 A If he was in the office, you know. He's very
8 seldom in the office.

9 Q Do you know -- you know Mr. Berke, right?

10 A Yeah, right.

11 Q Joe Berke?

12 A Right.

13 Q By the way, do you know who owns the building
14 at 4839 North Milwaukee?

15 A No, I don't.

16 Q How often would you say Mr. Berke is in the
17 office?

18 A Once every couple weeks.

19 Q Have you showed that space where the beauty
20 school used to be over there on Milwaukee in the last
21 year?

22 MR. KAMBEROS: Objection. I don't think it's
23 relevant and don't answer the question.

24 MR. ORDOWER: We'll certify that one.

1 MR. KAMBEROS: Okay.

2 BY MR. ORDOWER:

3 Q Is that space over on Milwaukee offered for
4 rent now?

5 A I don't know. I haven't been showing it.

6 MR. KAMBEROS: I'll withdraw my objection on
7 the last one.

8 Why don't you answer that one again.

9 MR. ORDOWER: He answered it already. He
10 hasn't been showing it.

11 MR. KAMBEROS: All right. I believe Mr. Berke
12 has had his sign up there.

13 THE WITNESS: Yeah, right. That's the truth,
14 you know.

15 MR. KAMBEROS: He knows it.

16 MR. ORDOWER: Would you swear the lawyer,
17 please, if he's going to testify?

18 BY MR. ORDOWER:

19 Q All right. So you haven't showed any space
20 then over there in the last year?

21 A No.

22 Q Do you know what rent they're asking?

23 A No.

24 MR. ORDOWER: I don't think I can ask this guy

1 too much more.

2 MR. KAMBEROS: I don't think so either.

3 Signature will be waived.

4 You're excused. Good bye.

5 MR. ORDOWER: Thanks for coming in.

6 THE WITNESS: Okay. Thanks a lot.

7 (WITNESS EXCUSED)

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF C O O K)

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4 I, MARY KAY MARTENSEN, CSR and Notary Public
5 in and for the County of DuPage and State of Illinois,
6 do hereby certify that on November 11, 1987, at 10:30
7 a.m., at Three First National Plaza, Suite 525,
8 Chicago, Illinois, the deponent, ERNIE HOWARD,
9 personally appeared before me.

10 I further certify that the said ERNIE HOWARD
11 was by me first duly sworn to testify and that the
12 foregoing is a true record of the testimony given by
13 the witness.

14 I further certify that I am not counsel for
15 nor related to any of the parties herein, nor am I
16 interested in the outcome hereof.

17 In witness whereof, I have hereunto set my
18 hand and seal of office this 12th day of November,
19 1987.

" OFFICIAL SEAL "
MARY KAY MARTENSEN
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 8/18/90

Mary Kay Martensen
Notary Public

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22
23
24 My commission expires August 18, 1990
 CSR No. 084-001120